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Directive 076

December 16, 2009

Operator Declaration Regarding Measurement and Reporting Requirements

The Energy Resources Conservation Board (ERCB/Board) has approved this directive on December 16, 2009.

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Chairman

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1 Introduction

1.1 Purpose

This directive applies to all operators subject to Energy Resources Conservation Board (ERCB) measurement and reporting requirements and reporting to the Petroleum Registry of Alberta (PRA) and pertains to conventional oil, heavy oil, crude bitumen, and natural gas facilities. It does not apply to mineable oil sands.

It sets out new requirements according to which operators are to declare the degree to which they have infrastructure in place to ensure compliance with ERCB measurement and reporting requirements. It does not include instructions on how the volumes are to be measured or reported to the ERCB; those topics are included in such other ERCB documents as *Directive 017: Measurement Requirements for Upstream Oil and Gas Operations* and *Directive 007: Volumetric and Infrastructure Requirements*.

If requirements in previously issued ERCB documents (directives, interim directives, informational letters, guides, etc.) conflict with the requirements in this directive, the requirements in this directive supersede the prior requirements.

1.2 Requirements, Enforcement, and Expectations

In this directive, ERCB requirements are numbered sequentially.

All operators must be aware of ERCB requirements and have the infrastructure in place to ensure compliance. Failure to comply with the requirements of this directive will subject the operator to the *Directive 019: ERCB Compliance Assurance—Enforcement* process. For details regarding ERCB compliance and enforcement, see *Directive 019*, available on the ERCB Web site www.ercb.ca. The ERCB regulates measurement and reporting based on Section 14 of the *Oil and Gas Conservation Regulations* of the *Oil and Gas Conservation Act*.

The ERCB may direct an operator in writing to implement changes to improve the design or operation of controls or evaluation processes, and this direction will become a condition of operation for that operator.

1.3 Enhanced Production Audit Program

This directive implements the ERCB's Enhanced Production Audit Program (EPAP), designed to

- raise the level of assurance regarding operators' compliance with ERCB measurement and reporting requirements, and
- raise the level of compliance with ERCB measurement and reporting requirements.

The ERCB Production Audit Team

- administers EPAP and this directive,
- monitors and analyzes data submitted either to the PRA or directly to the ERCB,
- regularly provides reports on the results of this analysis to each operator in support of continuous improvement in the design and evaluation of their controls,
- escalates EPAP reporting requirements when required to resolve outstanding issues, and
- conducts controls-based or substantive audits when circumstances warrant.

Through EPAP, the ERCB will reduce its reliance on substantive audits in favour of relying on the effectiveness of every operator's controls to improve compliance with ERCB measurement and reporting requirements. Operators are expected to design, operate, and evaluate controls that ensure compliance with ERCB measurement and reporting requirements and to maintain sufficient documentation to support their design and evaluation of controls.

This directive is supplemented by the *EPAP Operator's Handbook*, available on the ERCB Web site www.ercb.ca, which has suggestions and recommendations for implementing the requirements in the directive. While enforcement action is not applicable to recommended best practices or guidelines, operators should consider these as well.

2 Declaration Regarding ERCB Measurement and Reporting Requirements

EPAP's process requires that each operator's senior executives submit an annual declaration attesting to the state of their controls designed to ensure compliance with ERCB measurement and reporting requirements. The declaration includes reporting on the existence of controls and the results of the evaluation of controls.

The wording of the declaration, with descriptions of the attachments, is in Appendix I.

1) **Annual declaration**: An operator must submit a Declaration on ERCB Measurement and Reporting Requirements to the ERCB every year.

2) **Period covered by a declaration**: An operator's declaration must cover the 12 calendar months ending in the operator's declaration month and must be received by the end of the month following the declaration month.

The ERCB will permit operators some latitude to choose a declaration month that is most convenient for the operator. The ERCB Production Audit Team will honour a request for a preferred declaration month if the request is received before the end of the first year following the effective date of this directive or, for a new operator, before the end of the first year of operations.

In the absence of a request for a preferred declaration month, the ERCB will assign a month for the operator. Once the operator's declaration month has been chosen, whether by the operator or by the ERCB, it can be changed only by request in writing to the ERCB. The ERCB reserves the right to approve or deny such a request.

3) **First declaration**: An operator must submit its first declaration within two years of the effective date of this directive or within two years of its first submission to the PRA, whichever comes later.

The ERCB encourages operators to develop and test the declaration processes early. If the first declaration is made within the first year of the effective date of this directive or of the first submission to the PRA, noncompliance with any requirement in this directive will not be subject to *Directive 019* enforcement for that first declaration.

If an operator merges with or acquires another operator, declarations will continue to be submitted to the ERCB following the declaration period associated with the surviving Business Associate ID on the PRA. Changes to the declaration month may be made by request in writing to the ERCB.

4) **Form of declaration**: An operator must submit its annual declaration electronically using the ERCB's EPAP system.

A declaration in any other form is not considered a valid declaration.

The attachments to a declaration are generated automatically based on data entered by the operator during the declaration period.

The declaration is to be reviewed and approved by senior executives with provincial authority for field operations and production accounting. See the *EPAP Operator's Handbook* for further interpretation.

5) **Declaring executives**: An operator must submit its annual declaration on behalf of and in the name of one or more senior executives.

6) **Retention and provision of declarations**: As proof of electronic submission of a declaration, the operator must retain a signed paper copy of the declaration for a period of not less than three years and must provide this copy on request to the ERCB.

Declarations cover all facilities operated by an operator at the time of declaration, regardless of their size or when they were acquired. The ERCB recognizes that controls for a particular requirement may not be the same at all facilities and that newly acquired facilities may not yet be integrated into an operator's normal operations. Nonetheless, the operator is responsible for compliance with ERCB requirements at all facilities at all times.

7) **Scope of declaration**: An operator must consider that the declaration includes all facilities operated by the operator at the end of the declaration period.

As additional evidence of efforts to ensure compliance, an operator's declaration may include evaluation of controls conducted by the operator at facilities that are no longer operated by the operator at the time of declaration.

3 Design of Controls

8) **Design of controls over measurement and reporting requirements**: An operator must design, maintain, and operate controls to ensure compliance with applicable ERCB measurement and reporting requirements.

This directive does not prescribe specific components of controls or their degree of complexity. Operators are to design the components and complexity of controls using judgement, acting reasonably, giving consideration to various factors particular to the operations, including size, nature of business, and complexity. The *EPAP Operator's Handbook* provides suggestions and best practices that may be adopted as appropriate.

It is reasonable to have no controls ensuring compliance with a particular requirement at a particular facility if

- that requirement does not apply to that facility, or
- the ERCB has granted a measurement exemption regarding that requirement at that facility.

9) **Disclosure regarding requirements for which there are no controls**: An operator must declare the measurement and reporting requirements for which the operator does not have controls and provide an explanation as to why having no controls is appropriate.

10) **Retention and provision of controls documentation**: An operator must maintain up-to-date documentation on controls over measurement and reporting requirements and on the procedures used to evaluate their effectiveness. This documentation must be provided electronically on request to the ERCB through the ERCB's EPAP system.

4 Evaluation of Controls

11) **Conducting evaluations of controls**: Every year, an operator must conduct reasonable and adequate evaluations of controls over measurement and reporting requirements.

While the coverage of evaluations may vary depending on operator size and business focus, a reasonable effort is required each year.

This directive does not specify how the effectiveness of controls is to be evaluated. The *EPAP Operator's Handbook* contains some guidelines that may be useful in conducting such evaluations.

Operators are to provide the ERCB with a reasonable level of assurance that they are, in fact, conducting adequate evaluations of controls. The ERCB does not normally need to know the details of the results obtained every year, but is to be informed that evaluations are being carried out and that the results are being assessed.

12) **Disclosure regarding evaluations of controls**: An operator must declare the number of evaluations of controls conducted during the declaration period, the number of those evaluations where the controls were deemed successful, and the operator's assessment of whether or not the risk of noncompliance with the requirement is addressed.

13) **Retention and provision of results**: An operator must prepare and retain for a period of three years documentation on the processes followed and the results obtained for each instance of evaluation of controls and provide these electronically on request to the ERCB through the EPAP system.

5 Remediation

14) **Remediation of control deficiencies:** If an operator's evaluation of controls indicates that the risk of noncompliance with a particular requirement is not adequately addressed, the operator must prepare and implement a reasonable remediation plan for each control deficiency.

15) **Investigation and remediation**: If the ERCB identifies situations that indicate the possibility of noncompliance with one or more measurement and reporting requirements, the operator must investigate and, if necessary, prepare and implement a reasonable remediation plan.

The sending of an e-mail by the ERCB to the operator constitutes written notice for the purposes of this directive.

16) **Reporting remediation**: If the ERCB has directed that a remediation plan be prepared and implemented, the plan, including expected and actual completion dates, must be reported electronically by the operator through the ERCB's EPAP system.

Appendix 1 Declaration Regarding ERCB Measurement and Reporting Requirements

We, ***<Name >***, the ***<title>*** and ***<Name >***, the ***<title>*** of ***<Operator Name>*** (the "Operator"), declare the following:

1. This declaration covers the 12 calendar months ending ***<declaration Month and Year>***.

2. We are senior executives of the Operator with responsibility that includes all of the Operator's Alberta facilities and with the authority to direct resources.

3. We directly or through those we supervise have a competent understanding of the ERCB measurement and reporting requirements; we recognize our responsibility for ensuring compliance with those requirements; and we recognize the authority of the ERCB to make such requirements and enforce compliance with them.

4. We have ensured that there are controls within the organization designed to provide a reasonable, though not necessarily absolute, level of assurance over compliance with ERCB measurement and reporting requirements.

5. We follow a process within our organization to evaluate the effectiveness of controls. The results of those evaluations conducted during this declaration period and our conclusions based on these results are fairly portrayed in Attachment A.

6. Where we do not have controls to ensure compliance with certain ERCB requirements, we have explained why having no controls is appropriate in Attachment B and, where there is insufficient reason for not having controls, we have prepared and are implementing appropriate controls.

7. Where the scope, number or process of evaluations of controls we have conducted during the declaration period is not sufficient to provide a reasonable level of assurance over the effectiveness of our controls, we have prepared and are implementing changes to our evaluation plans.

8. Where our evaluations have identified deficiencies in our controls, as documented in Attachment A, we have prepared and are implementing changes to remediate those deficiencies.

9. We commit that appropriate resourcing will be provided to execute and measure progress of any remediation plans cited above.

For further information or clarification, please contact ***<Name of Person identified as primary contact>.***

The last date for submission of this declaration is the last day of ***<Submission Month and Year>***.

Date signed: _____

<Signature>	***<Signature>***
<Name> <Title>	***<Name> <Title >***

Note: Declarations are to be made through the EPAP system. The system will generate the appropriate words for the declaration and the three attachments, described below, based on the data entered by the operator. The example declaration shown above indicates two signing executives; the number that an operator's declaration will show depends on the data entered into the EPAP system by the operator.

Attachments to Declaration

See *the EPAP Operator's Handbook* for explanations and detailed examples of the attachments.

A. Summary of Evaluation of Controls

This attachment will show the following information for each item identified by the ERCB as being an appropriate subject for controls and for which the operator has controls:

1. the levels (Company, Operating Area, or Facility) at which these controls exist for each item,
2. whether or not these controls have been evaluated,
3. if those controls which have been evaluated are deemed to be effective, and
4. the operator's opinion as to whether these evaluation results indicate that the controls adequately address the risk of noncompliance.

B. Measurement and Reporting Requirements Not Addressed by Controls

This attachment will show for each item identified by the ERCB as being an appropriate subject for controls and for which the operator has indicated there are no controls the reason for there being no controls.

C. Facilities Operated

This attachment will indicate the number of facilities operated by the operator at the time of declaration.

Appendix 2 Definitions

For the purpose of this directive, the following definitions are used. For more details, please see the *EPAP Operator's Handbook*.

Business process: a sequence of related, structured tasks that achieve a specific business goal.

Control: a process designed to provide a reasonable level of assurance that the underlying business process ensures compliance with ERCB measurement and reporting requirements.

Control deficiency: the state that exists when controls do not provide a reasonable level of assurance over the achievement of compliance with ERCB measurement and reporting requirements. The reason for the deficiency can exist either in the control or in the underlying business process.

Declaration period: the 12 calendar months that the declaration is to cover, ending with the chosen declaration month.

Evaluation of controls: a process by which an operator evaluates the effectiveness of the design and operation of a control in addressing the risk of noncompliance. The evaluation of controls may include assessing the underlying business process.

Facility: any building, structure, installation, equipment, or appurtenance over which the ERCB has jurisdiction and that is connected to or associated with the recovery, development, production, handling, processing, treatment, or disposal of hydrocarbon-based resources or any associated substances or wastes, including wells. Note that for the purposes of this directive, the definition of facility

- focuses on facilities for which data are reported to the PRA or the ERCB, and
- includes wells.

Infrastructure: the environment in the organization established by the senior executives in response to the needs of the organization in addressing ERCB requirements by

- developing effective organizational structure, procedure manuals, operating instructions, job descriptions, and training materials that define authority and responsibility;
- communicating management's philosophy, codes of conduct, and operating style to all the employees and evidence that employees have confirmed their knowledge and understanding;
- enhancing integrity, ethics, and competence of all the employees;
- managing effectively the internal and external influences that affect the operator's operations; and
- establishing effective human resource policies and procedures for hiring and managing the employees.

Operator: the person or organization who keeps records and submits production reports to the PRA or the ERCB for a facility, whether or not that organization is the sole licensee or approval holder for all parts of the facility. "Operator" is synonymous with "Operator of Record" as used at the PRA. Note that for the purposes of measurement and reporting, the emphasis is on the organization that reports to the PRA or the ERCB, not the organization that may control or undertake the day-to-day operations and activities at all or part of a facility.

Measurement and reporting requirements: The term "measurement" as used in ERCB directives generally means "measurement, accounting, and reporting." While measurement is the determination of a volume, accounting and reporting are integral components of measurement in that after a fluid volume is "measured," mathematical procedures (accounting) may have to be employed to arrive at the desired volume to be "reported." Notwithstanding this all-encompassing definition, for sake of emphasis this directive refers to "measurement and reporting" recognizing that separate functions take place in the field and in the office.

Reasonable level of assurance: "Level of assurance" is the degree of confidence one has in a statement. A "reasonable" level of assurance does not mean absolute assurance and might not even mean a "very high" level of assurance, but it is enough, for all practical purposes, to make senior executives comfortable with signing the declaration. What is reasonable depends on many factors, including the executive, the organizational culture, and the resources required to increase the level of assurance.

Remediation: a process, effected by an operator's management, to

- correct control deficiencies identified by the operator during the evaluation of controls, and
- correct deficiencies identified by the ERCB.

Senior executive: the person within the operator's management who holds provincial authority within the operator's management, to direct resources to execute and measure progress of

- the evaluations of controls, and
- remediation of deficiencies.